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December 15, 2010

Ex Parte Communication

Marlene Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

Re: Schools and Libraries Universal Service Support Mechanism;  
CC Docket 02-6

Dear Ms. Dortch:

On October 15, 2010, Catherine Baskett, Government Programs and Compliance Manager at CenturyLink, sent an electronic mail message to Gina Spade at the Wireline Competition Bureau. The message raised the following questions about the Commission's *Sixth Report and Order* in the above docket, and noted that they would benefit from further clarification.

1. There is a difference between Lit Fiber, Dark Fiber, and other transport such as Ethernet. The order is specific to leasing of Lit and Dark fiber. Does this mean all other "transport" services still fall under the existing rules (i.e., that Telecommunication Services must be provided by a Telecommunications provider)?
2. How can a true "apples to apples" comparison be done if components of one solution are not eligible. and therefore under current program rules can not be included in the main factor of price? For example, lighting equipment is required to use Dark Fiber, but lighting equipment is not eligible in the E-rate program. Under an Ethernet Transport service, all of this is part of the overall service and is eligible.

3. There seem to be conflicting reports of what “fiber” is indeed eligible. According to the FCC News announcement, and as I believe was stated at the D.C. training, only unused fiber “already” in place is eligible. However, there were statements made about off premise construction not being eligible. If it is existing fiber, how could there be “off premise construction”?
4. The order also states that excess capacity cannot be purchased/leased via Dark Fiber. A fiber cable can include 12 or more strands of fiber, of which each strand could have more than 160GB of bandwidth, based on what modulating equipment is used. Due to this, how does one comply with this part of the order, since the procurement of Dark Fiber in any realm would act as a purchase/lease of excess capacity? Is it feasible and cost effective for a School or Library to purchase Dark Fiber and actually use the available bandwidth?
5. Can you please provide further clarification on the changes to unbundled warranty and “retainer” maintenance. Does this mean that maintenance contracts that provide break/fix services and software upgrades in order to keep funded equipment operational are no longer eligible? If so can you please confirm what would remain as eligible services under the Basic Maintenance category of service?

This notice is filed for addition to the record, pursuant to Sec. 1.1206(b)(2) of the Commission’s rules. If you have questions, please contact me.

Very Truly Yours,



John E. Benedict

cc: Gina Spade